Remarks

Claims 1-4, 7-13 and 16-23 are pending in the application. Claims 6 and 14 have been canceled by this amendment.

Claims 1, 2, 5, 9, 10, 13, 14, 16 and 17 are rejected under 35 USC 102(b) as being anticipated by Chan (US Patent No. 5,659,541).

Chan is directed to a voice over data network system. Voice samples from a talking party are converted to digital signals, packetized and routed over a data network to a listening party. The packets are stored in an arrival buffer. If the arrival buffer gets full, the system has one of three methods disclosed to discard *voice* packets. There are not data packets discussed in this reference. The three methods are to 'discard one out of every X sample in buffer 20,' 'discard the "Yth" sample in buffer 20, and 'detect a group of low energy samples in buffer 20 (e.g., *samples corresponding to a silent, non-speaking interval of talking party speech*) and discard the samples in this group.' All of the candidate samples for discard are voice samples, not data traffic.

Further, Chan discloses differentiating between voice and in-band signaling. Even if one were to draw an analogy between the in-band signaling packets and the general data traffic on a data network, Chan *retains* the *in-band signaling packets* and *discards voice samples*. See Chan, col. 3, lines 35-40. "To prevent the discarding of samples in buffer 20 *when the arriving samples correspond to in-band signaling information*...inhibits leaky filter 35 from discarding samples..." Chan retains the analogy to data signals, discarding voice signals.

In contrast, Applicants' invention as claimed in claims 1, 9 and 16 retain the voice packets and discard the data packets. With regard to claims 1 and 9, the substance of dependent claims 5 and 14 has been added into these claims. In the office action, with regard to claims 5 and 14, it states, "Chan...teach wherein said freed space includes selectively discarding inbound data packets, (col. 3, lines 8-25).' However, as discussed above, Chan teaches selectively discarding voice packets, not data packets, and further on actually teaches retaining data packets instead of voice packets.

Claims 16 requires that the free space in the input buffer be obtained by discarding data traffic. As discussed above, Chan does not show, teach nor suggest this, and indeed teaches away from retaining voice packets over data packets. It is therefore submitted that claims 1, 9 and 16 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claim 2 depends from claim 1. Claims 10 and 13 depend from claim 9. Claim 17 depends from claim 16. These claims inherently contain all of the limitations of their respective base claims. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. It is therefore submitted that claims 2, 10, 13 and 17 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 3, 4, 12 and 19-22 are rejected under 35 USC 103(a) as being unpatentable over Chan in view of Bennett (US Patent Application Publication No. 2002/0075799).

Claims 3 and 4 depend from claim 1, claim 12 depends from claim 9, claims 19 and 20 depend from claim 16, and inherently contain all of the limitations of those claims. As discussed above, Chan does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. As discussed previously with regard to Bennett, Bennett does not teach inspecting the buffers after packet arrival. In addition, Bennett does not teach selection of voice packets to be retained over data packets. In Bennett, all packets are data packets, there is no discrimination between voice packets and data packets. Therefore, the combination of references does not teach discarding data packets in favor of retaining voice packets, much less the further limitations of the dependent claims.

With regard to claims 21-23, claim 23 requires that the data traffic be discarded in favor of voice traffic. This is not shown, taught nor suggested by the combination of references. Claims 22-23 depend from claim 23 and inherently contain all of the limitations of the base claim, which are not shown, taught nor suggested by the prior art.

It is therefore submitted that claims 3, 4, 12 and 19-22 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 7, 8, 11 and 18 are rejected under 35 USC 103(a) as being unpatentable over Chan in view of Farris (US Patent No. 6,064,653).

Contrary to the statements made in the office action, Chan does not teach wherein said freeing space is performed until a second defined threshold level is reached, where the freeing of space involves discarding data traffic to allow retention of the voice traffic. Farris does not overcome that deficiency, being directed to a user interface. Therefore, the combination of references does not teach the use of a user interface in conjunction with defining thresholds that determine how much data traffic is retained in favor of voice traffic. It is therefore submitted that claims 7, 8, 11 and 18 are patentably distinguishable over the prior art and allowance of these claims is requested.

No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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